

REMARKS

Claims 1-10, 18-20, and 22 remain in the application. Claims 1, 18, and 22 are the only claims in independent form. The present claims have been amended in order to further clarify the present invention and place the application in condition for allowance.

Applicant expresses his gratitude for courtesies extended by the Examiner during a telephonic interview conducted with Applicant's representative that occurred Tuesday, June 24, 2003. During the telephonic interview, proposed amendments to the claims were discussed and it was suggested by the Examiner to file a Request for Continued Examination, including the proposed amendments.

Pending claims 1-3, 5-8, 18-20, and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,070,277 to Thomas (hereinafter, "the '277 patent"). According to the Office Action, the '277 patent discloses a single disposable apparatus for collecting and disposing liquid comprising a bed pan vessel including an annular rim constituting a seating surface and an inner surface; and absorption means fixedly attached to and disposed on the entire inner surface for absorbing and collecting liquids within a vessel, wherein the vessel and absorption means form a single disposable unit.

As is well established, "anticipation under 35 U.S.C. §102 requires that disclosure in a single piece of prior art of each and every limitation of a claimed invention." Apple Computer, Inc., v. Articulate Systems, Inc., 234 F3d 14, 57 USPQ 2d 1057 (Fed. Cir. 2000), citing Electromed. Sys. SA v. Cooper Life Sciences, 34 F3d 1048, 32 USPQ 2d 1017, 1019 (Fed. Cir. 1994) (emphasis added). Further, anticipation of the claims can be found only if a reference shows exactly what is claimed; where there are differences between the disclosures of the references and the claims, a rejection must be based on obviousness under §103. Titanium Metals Corp. v. Banner, 778 F2d 775, 227 USPQ 773 (Fed. Cir. 1985). Additionally, "[f]or a prior art reference to

anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference.” In re Bond, 910 F2d 831, 15 USPQ 2d 1566 (Fed. Cir. 1990) (emphasis added).

In response to the outstanding rejection, Applicant has amended pending independent claims 1 and 22 to distinctly claim a single, disposable apparatus wherein the bed pan vessel includes side walls, a bottom wall, a seating surface, and an inner surface. This claimed apparatus is not at all disclosed in the ‘277 patent. The ‘277 patent merely discloses a disposable bag for collecting liquids and not a bed pan vessel having all the limitations set forth in the pending independent claims (i.e., a bed pan vessel including side walls, a bottom wall, a seating surface, and an inner surface). The side walls and bottom wall of the presently claimed invention are made of materials that support the weight of a person (see, page 5, lines 4-12 of the specification). Although the figures set forth in the ‘277 patent show a cup-shaped vessel, careful reading of the detailed description and brief description of the drawings disclose that the vessel cannot support the weight of a person. The presently claimed invention is not a waste bag as is the prior art, but instead, it is an apparatus including a bed pan vessel having side walls, a bottom wall, a seating surface, and an inner surface, wherein the side walls and bottom wall support the weight of a person. Since the presently claimed invention is structurally different from the apparatus disclosed in the ‘277 patent, the presently claimed invention cannot be anticipated by the ‘277 patent. Reconsideration of the rejection is respectfully requested.

Claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘277 patent. Additionally, claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘277 patent in view of GB 2,224,522 to Stevens (hereinafter, “the ‘522 patent”). In response thereto, the presently claimed invention is patentably distinct over the ‘277 patent as set forth in the above argument and claim amendments. Again, not all of the claimed structures of the presently claimed invention are disclosed in the prior art. Since the prior art reference does not teach all the claim limitations, a

prima facie case of obviousness has not been established. Moreover, the '522 patent application is for collecting liquids including a vessel and absorption means. The apparatus disclosed in the '522 patent application is an apparatus having an absorption mechanism lining the bottom portion of the receptacle therein. There is no absorption mechanism or pad located or situated on the sides of the liner in order to prevent any type of spillage that may occur during transportation or any other similar movement. There is no means for preventing the spillage of any type of liquid from within the apparatus disclosed in the '522 patent application. In contradistinction, the presently pending claims, as amended, claim an apparatus including a bed pan vessel having side walls, a bottom wall, a seating surface, and an inner surface, and an absorption mechanism completely lining and covering the inner surface of the bed pan vessel. This provides an advantage over the cited prior art reference and thus cannot be anticipated by either the '277 patent or the '522 patent application. Since a *prima facie* case of obviousness has not been established, reconsideration of the rejection is respectfully requested.


The remaining dependent claims not discussed above are ultimately dependent upon at least one of the independent claims discussed above. No prior art reference makes up for the deficiencies of that reference as applied against the independent claims as no prior art reference discloses or suggests the invention as set forth in the claims as discussed in detail above.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested. Applicant respectfully requests to be contacted by telephone if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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